

1 **TIMOTHY R. GARRISON**

California State Bar No. 228105

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5 Attorneys for Mr. Angel Rios

6 UNITED STATES DISTRICT COURT

7 SOUTHERN DISTRICT OF CALIFORNIA

8 (HONORABLE WILLIAM Q. HAYES)

9 UNITED STATES OF AMERICA,

10 Plaintiff,

11 v.

13 ANGEL RIOS,

14 Defendant.

CASE NO. 08cr1811-WQH

DATE: September 2, 2008

TIME: 2:00 p.m.

**NOTICE OF MOTIONS AND MOTIONS  
IN LIMINE TO:**

1) EXCLUDE TECS EVIDENCE PROFFERED  
BY GOVERNMENT;

2) BAR THE GOVERNMENT FROM  
INTRODUCING EVIDENCE OF OTHER  
CRIMES, WRONGS, OR ACTS BESIDES TECS;  
3) GOVERNMENT SHOULD BE PRECLUDED  
FROM INTRODUCING SO-CALLED EXPERT  
TESTIMONY IN THIS ALIEN SMUGGLE  
CASE;

4) PRECLUDE INTRODUCTION OF "MUG  
SHOTS" OF MR. RIOS;

5) JURY SHOULD NOT BE SUBJECTED TO  
DETAILS OF THE COMPARTMENT  
CONTAINING THE MATERIAL WITNESS,  
NOR THE MATERIAL WITNESS' PHYSICAL  
AND MEDICAL CONDITIONS.

6) EXCLUDE EVIDENCE OF "NERVOUSNESS"  
BECAUSE IT LACKS PROBATIVE VALUE, IS  
OVERLY PREJUDICIAL AND LACKS PROPER  
FOUNDATION;

7) THE CONFRONTATION CLAUSE  
REQUIRES THAT ANY REFERENCE TO  
ALIENAGE MUST BE EXCLUDED IF THE  
MATERIAL WITNESS DOES NOT TESTIFY  
AT TRIAL;

8) COURT SHOULD NOT EXCLUDE  
STATEMENTS MADE TO THE MATERIAL  
WITNESS BY OTHERS BECAUSE SUCH  
STATEMENTS ARE NOT ADMISSIBLE  
UNDER FRE 801(d)(2)(E)

9) COURT SHOULD NOT SEND THE  
INDICTMENT INTO THE JURY ROOM  
DURING DELIBERATIONS;

10) PRECLUDE THE GOVERNMENT FROM

USING ANY EVIDENCE WHICH HAS NOT  
BEEN TURNED OVER TO THE DEFENDANT  
AT THIS TIME AS VIOLATIVE RULE 16;  
11) PRODUCE GRAND JURY TRANSCRIPTS

TO: KAREN P. HEWITT, UNITED STATES ATTORNEY, AND  
PETER MAZZA, ASSISTANT UNITED STATES ATTORNEY

**PLEASE TAKE NOTICE** that on September 2, 2008 @ 2:00p.m., or as soon thereafter as counsel may be heard, the defendant, Angel Rios, by and through his counsel, Timothy R. Garrison, and Federal Defenders of San Diego, Inc., will ask this Court to enter an order granting the motions listed below.

**MOTIONS**

Mr. Rios, the defendant in this case, by and through his attorneys, Timothy R. Garrison, and Federal Defenders of San Diego, Inc., pursuant to the Fourth, Fifth and Sixth Amendments to the United States Constitution, FED. R. CRIM. P. 12, 16 and 26, and all other applicable statutes, case law and local rules, hereby moves this Court for an order to:

- (1) to exclude tecs evidence proffered by government;
- 2) to bar the government from introducing evidence of other crimes, wrongs, or acts besides tecs;
- 3) to precluded the government from introducing so-called expert testimony in this alien smuggle case;
- 4) to preclude introduction of "mug shots" of Mr. Rios;
- 5) the jury should not be subjected to details of the compartment containing the material witness, nor the material witness' physical and medical conditions.
- 6) to exclude evidence of "nervousness" because it lacs probative value, is overly prejudicial and lacks proper foundation;
- 7) to exclude confrontation clause requires that any reference to alienage if the material witness does not testify at trial;
- 8) to not exclude statements made to the material witness by others because such statements are not admissible under fre 801(d)(2)(e)
- 9) to not send the indictment into the jury room during deliberations;
- 10) to preclude the government from using any evidence which has not been turned over to the

1 defendant at this time as violative rule 16;

2 11) to produce grand jury transcripts.

3 These motions are based upon the instant motions and notice of motions, the attached statement of  
4 facts and memorandum of points and authorities, and any and all other materials that may come to this Court's  
5 attention at the time of the hearing on these motions.

6 Respectfully submitted,

7  
8 Dated: August 19, 2008

/s/ Timothy R. Garrison

**TIMOTHY R. GARRISON**

Federal Defenders of San Diego, Inc.

Attorneys for Mr. Rios

**CERTIFICATE OF SERVICE**

Counsel for Defendant certifies that the foregoing pleading is true and accurate to the best information and belief, and that a copy of the foregoing document has been caused to be delivered this day upon:

Courtesy Copy Chambers

Copy Assistant U.S. Attorney via ECF NEF

Copy Defendant

Dated: August 19, 2008

/s/ TIMOTHY R. GARRISON

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**STATEMENT OF FACTS AND  
MEMORANDUM OF POINTS AND  
AUTHORITIES IS HEREBY  
INCORPORATED BY REFERENCE TO  
DOCKET NO. 26**